

0328

CHARACTERISTIC REQUIREMENTS

0328.05

AGE REQUIREMENT

REV:11/2000

To qualify for MA under the Rite Care (section 0348) or poverty level coverage groups (0344.10 and 0344.15), an otherwise eligible child must be under the age of nineteen (19).

To qualify for MA under all other family-related coverage groups (such as Section 1931 or Medically Needy), an otherwise eligible child must be under the age of eighteen (18). If the child is eighteen (18) s/he must be a full time student in secondary school, or in the equivalent level of technical or vocational training. In addition, the student must reasonably be expected to complete the program before or in the month of his/her nineteenth (19th) birthday.

To be MA eligible, a parent (or other caretaker relative) must maintain a home for a needy child under the age of eighteen (18) without regard to whether the child is attending school or achieving passing grades. If the child is eighteen (18), s/he must be a full time student in secondary school, or in the equivalent level of technical or vocational training. The student must reasonably be expected to complete the program before or in the month of his/her nineteenth (19th) birthday.

Medical Assistance coverage is also available to certain groups of children up to age twenty-one (21). These groups are:

- o Children receiving foster care services, whether through DCYF or private, non-profit agencies;
- o Children for whom there is a State adoption subsidy agreement (hard to place children with special needs who are not eligible under the criteria of the IV-E program);
- o Individuals in Nursing Facilities and ICFs/MR.

0328.05.05

Verification of Age

REV:07/1994

The birth certificate is the primary source of verification of age.

If not available, the following documents are satisfactory:

Baptismal Certificate	Voter Registration Card
Confirmation Papers	Family Bible
Marriage License	State/Federal Census Record

Driver's License	Life Insurance Policy
Immigration Papers	School Records
Military Service Papers	Physician Records
Hospital Birth Records	RSDI Award Letter if DOB of child is included
Adoption Records	
Passport	Affidavit of Third Party (see 328.10.05)

0328.10 RELATIONSHIP REQUIREMENT

REV:11/2000

The relationship requirement must be met by Section 1931 families (including FIP families), and Medically Needy Families. There is no MA relationship requirement for pregnant women or poverty level/Rite Care children.

To satisfy the MA requirement of relationship, a child meeting the age requirement must be living with a relative of an acceptable degree of relationship in a home maintained by such relative. When the relative with whom the child lives is not the natural or adoptive parent, the term caretaker relative or loco parentis ("in place of the parent") is used. Although both parents of an eligible dependent child may qualify under the family related Section 1931 and Medically Needy coverage groups, only one caretaker relative may qualify under these groups. For purposes of determining MA eligibility, a relative does not qualify as a caretaker relative for a foster child when DCYF foster care payments are provided.

A child meets the relationship requirement if his/her home is with any of the following relatives:

- o Father, adoptive father, mother, adoptive mother;
- o Stepfather, stepmother (but not the parent of either);
- o Grandfather, great grandfather, great-great grandfather, great-great-great grandfather;
- o Grandmother, great grandmother, great-great grandmother, great-great-great grandmother;
- o Adoptive grandparent if the grandchild is the natural child of a parent who was adoptive, or if the grandchild is the adopted child of a parent, who was the natural child of the grandparent;
- o Brother, half brother, adoptive brother, stepbrother, sister, half sister, adoptive sister, stepsister;
- o Uncle or aunt (including uncle or aunt of whole or half

blood), great uncle or aunt, great-great uncle or great-great aunt;

- o First cousin (including first cousin of whole or half blood), first cousin once removed;
- o Nephew, great nephew, great-great nephew or niece, great niece, great-great niece including nephew or niece of whole or half blood.

Spouses of any of the persons in the above groups meet the relationship requirement and continue to meet it even after the marriage is terminated by death or divorce.

0328.10.05 Verification of Relationship

REV:07/1994

The degree of kinship between the parent or caretaker relative and the child must be established. The following evidence serves to substantiate the parent's statement of relationship:

- o Vital Statistics Records

For natural or adoptive parents, relationship is determined by examination of the child's birth certificate on which the parents' names are recorded.

For other relatives, a combination of vital statistics records must be reviewed in order to establish the required degree of relationship.

- o Other Records

When vital statistics records are unavailable for review, insurance policies, RSDI awards, or written statements by doctors, clergymen, school authorities, or others who have previous knowledge of the relationship constitute acceptable evidence.

- o Third Party Affidavit

When verification of age and/or relationship is unobtainable from any other source, a third party affidavit may be acceptable evidence.

An affidavit is the signed and sworn statement of a third person based upon the third person's personal knowledge of the facts which would indicate the probable age and relationship of the child. It is not merely a statement of belief based on the applicant's appearance. It should contain a statement of the circumstances upon which the third party's knowledge is based. The facts attested to must be consistent with the information provided on the DHS-2 and must not be contradictory of other records or evidence in the case record.

The eligibility technician determines with the applicant who is the person in the best position to attest to the facts, and the person who is readily available should be the first choice.

The affidavit from the third party must be notarized and must contain the following:

- o Name, address, occupation and length of time the third party has been at the address;
- o Relationship to the applicant (e.g., friend, cousin, doctor, employer, teacher);
- o How long he has known the applicant;
- o The approximate age, number and sex of the child(ren);
- o Circumstances in establishing the connection with the applicant. This might include statements such as: I grew up with the applicant and his brothers and sisters. We went to school together. I know that the child(ren) (name(s)) was born on (date) and is his/her child(ren).

An affidavit of a third person shall not be the first source of verification. The applicant, together with the eligibility technician must explore the availability of other sources to establish age and relationship. S/He must demonstrate that s/he has tried to obtain appropriate records (e.g., letter has been written to a city or state registry).

An affidavit is acceptable verification while awaiting replies from other sources, and it may be accepted if no other record is obtainable.

0328.10.05.05 *Verif Relationship Unwed Father*

REV:07/1994

An unwed natural father is defined as a child's biological father who was not married to the child's mother at the time of the child's birth.

The primary sources of verification for an unwed natural father are the child's birth certificate on which the man's name is recorded, or an adjudication of paternity by the RI Family Court or any other court of competent jurisdiction. When paternity has been established through adjudication a copy of the court order or decree must be retained as part of the case record. If either of these sources of verification is available, no further documentation of paternity is required.

0328.10.10**Establishment of Home/Temporary Absence**

REV:11/2000

A home is the family setting maintained or in the process of being established, as evidenced by assumption, continuation, and exercise of responsibility for day-to-day care and control of the child by the relative with whom the child is living, regardless of who has legal custody.

A home exists while the parent exercises responsibility for the child even though circumstances may require the temporary absence of either the child or caretaker from the customary family setting. Examples of allowable temporary physical separations between parent and child include but are not limited to the following:

- O Hospitalization of the child or parent, when the illness is such that a return to the family can be expected AND parental responsibility continues.
- O Attendance at school for the primary purpose of obtaining an education or vocational training while the parent retains full responsibility for the child.
- O Visiting or similar situations in which the child or parent is away from the home for a temporary period of time.

In general, allowable temporary absences of the child or parent from the home are limited to ninety (90) days per episode, with a second ninety (90) day renewal authorized only through supervisory approval. If a child is attending school or vocational training outside the home community, a temporary absence may exist as long as the child was living in the home before leaving for education, the parent retains full responsibility and supervision of the child, and the child returns to the home periodically, such as during vacation periods.

In determining whether a separation is allowable, the Regional Manager considers such factors as:

- o the extent to which the parent retains custodial, legal, and/or financial responsibility for the child;
- o the degree to which the parent's functioning as a provider of maintenance, physical care, or guidance is interrupted or terminated;
- o whether the municipality in which the parent resides pays tuition to the municipality where the child attends public school; and,
- o frequency of contact between parent and child.

0328.15 DEPRIVATION OF PARENT SUPPORT

REV:07/1994

To satisfy the eligibility factor of deprivation, a child must be deprived of support or care by the natural or adoptive parents due to:

- o The continued absence of a parent from the home; or,
- o The death of a parent; or,
- o The physical or mental incapacity of one natural (or adoptive) parent; or,
- o The unemployment of the natural (or adoptive) father or mother.

In situations where a parent(s) is separated from the child because a parent has placed him/her with a relative (or agreed to placement with a relative), it is necessary to determine that the child and the child's primary family is eligible based on one of the deprivation factors.

Also, when a child who does not have a poverty level characteristic is living with both of his/her natural or adoptive parents, whether or not they are married to each other, the child is not eligible, except if s/he meets the definition of incapacity of a parent or unemployment of a parent.

0328.15.05 Deprivation, Continued Absence

REV:07/1994

A child is considered eligible on the basis of continued absence, when either or both the natural or adoptive father or mother is absent from the home, and this absence interrupts or terminates the parent's functioning as a provider of maintenance, physical care and/or guidance for the child. This absence, furthermore, precludes counting on the parent's performance of this function in planning for the present support or care of the child for a known or indefinite period. If these conditions exist, the parent may have left only recently or sometime previously. Absence of the parent may be due to any of the following:

- o Divorce;
- o Divorce action in progress;
- o Legal separation;
- o Imprisonment;
- o Unmarried parent;
- o Agreement to live apart;

- o Search for employment;
- o Employment away from home;
- o Desertion or abandonment, which may also be present in other absence reasons such as a search for employment, employment away from home or an agreement to live apart.

A parent whose absence is occasioned solely by reason of the performance of active duty in a uniformed service of the United States is not considered absent from the home. (Uniformed Service means Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration and the Public Health Service of the United States).

In addition, a child is considered deprived of parental support by continued absence of a parent when:

- o A parent has been convicted of an offense and is under sentence of a court;
- o The sentence requires and the parent is performing unpaid public work or unpaid community service during working hours; and,
- o The parent is permitted by the court to live at home while serving the sentence because of crowded jail conditions or for other reasons in the public interest.

The continuing existence of the factor of absence must be deter-

mined whenever there is an indication of change and at least once in every six-month period.

0328.15.05.05 *Evidence of Parental Absence*

REV:07/1994

The eligibility technician has the responsibility through observation and evaluation of the facts submitted to determine that the parent is in fact absent. When there has been a divorce or legal separation, or if divorce action is in process, the eligibility technician examines any documents, such as current court decree, letter from attorney, etc. as substantiating evidence. In other situations, a letter from the absent parent, information about the absent parent's address, employment, or other pertinent information is used.

0328.15.05.10 *Referral to Child Support*

REV:01/2002

With the exception of pregnant women, the eligibility technician will refer the family with an absent parent via InRHODES to Rhode Island Child Support Enforcement (CSE). As a condition of eligibility, the individual is required to cooperate in establishing the paternity of a child born out of wedlock for whom the individual can legally assign

rights and in obtaining medical care support and medical care payments for himself/herself, as well as for any other person for whom the individual can legally assign rights. The individual is also required to cooperate in identifying and providing information to assist CSE in pursuing any third party which may be liable to pay for care and services provided by MA.

0328.15.10 Deprivation by Death

REV:07/1994

For a child to be eligible on the basis of death, either or both the natural or adoptive father or mother of the child must be deceased. This information is specified on the DHS-2.

Verification of this factor can be made through the death certificate, a newspaper obituary, an RSDI award letter, VA death payment letter, insurance death settlement letter, funeral director records, hospital records, military service records, GPA burial payment, lodge, club or fraternal organization record, or police record.

0328.15.15 Deprivation, Phy/Mental Incap

REV:07/1994

A child satisfies the parental incapacity requirement when one parent (natural or adoptive) has a physical or mental defect, illness, or impairment which is substantiated by competent medical authority. An existing physical or mental condition that precludes a parent (father or mother) from employment or from providing care to the child(ren) establishes deprivation without regard to whether such parent was supporting the family or caring for the child(ren) prior to becoming incapacitated. The incapacity must be of such a debilitating nature as to reduce substantially or eliminate the parent's present ability to support or care for the child(ren). The incapacity must be expected to last for a minimum of 30 days.

When at least one child in a family is eligible due to the incapacity of the natural or adoptive parent in the home, eligibility exists for all eligible children, the parent, and the child's other parent with whom the child is living, or the incapacitated parent's spouse with whom the child is living. The term "natural parent" means natural or adoptive parent. The term "spouse" means an individual who is the husband or wife of the child's own parent by reason of a ceremonial or other legal marriage. The wife or husband need not be the natural or adoptive mother or father, but the eligibility factor of incapacity must exist for the natural or adoptive parent.

In making the determination of ability to support the child, the eligibility technician should take into account the limited employment opportunities of handicapped individuals.

A parent must accept medical treatment likely to enable him or her to work or to care for the child(ren).

0328.15.15.05 *Evidence of Parental Incapacity*

REV:07/1994

The medical evidence of incapacity can be either oral or in writing but must be identified as to the source of information and the date. The information must be recorded on a C1-b and filed in the case record.

The statement must indicate what the incapacity is (diagnosis), what effect it has on the ability of the parent to provide support or to care for the needy child, how long the condition is expected to continue, and any recommendations for care or treatment.

Evidence for RSDI or SSI Beneficiaries:

A finding of eligibility for RSDI or SSI benefits based on disability or blindness is acceptable proof of the parent's incapacity for AFDC purposes.

Evidence for mental retardation as Incapacity Factor:

An individual psychometric examination showing an I.Q. of 70 or less is evidence that a parent is mentally retarded. This evidence must be substantiated by the use of the C1-b.

Previous examination reports, available from school records, court and probation records, state schools, or from files of other agencies, may be used as evidence, provided the examination was an individual one given within five (5) years.

0328.15.15.10 *Continuing Elig, Parental Incap*

REV:01/2002

The eligibility technician has the responsibility to determine that incapacity continues to exist:

- o At least once in every six (6) months or twelve (12) months; or,
- o At the time the previous medical report showed that a potential change might occur.

The review of incapacity for continuing eligibility includes a current medical report giving the diagnosis and all the information for initial eligibility.

A period of eligibility up to three (3) months after recovery from an incapacity is provided, if needed, and if the need exists in order to enable the parent to re-establish himself/herself in assuming responsibility for his/her family. A need would exist if the parent does not have the present ability to provide support or care for the child(ren).

0328.15.20 Deprivation by Parent Unemployment

REV:01/2002

A child satisfies the unemployment of parent requirement only if s/he is not eligible on the basis of any other deprivation factor and if the person who is unemployed is the natural or adoptive parent (mother or father) of the child.

When at least one child in a family is eligible due to the unemployment of the natural or adoptive parent in the home, eligibility exists for all eligible children, the natural or adoptive qualifying unemployed parent, and the child's other parent with whom the child is living or the unemployed parent's spouse with whom the child is living. The term "spouse" means the husband or wife of the child's natural or adoptive father/mother, by reason of a ceremonial or other legal marriage.

The wife (spouse) need not be the natural or adoptive mother.

The husband (spouse) need not be the natural or adoptive father.

The information given by the applicant on the DHS-2 regarding the employment history of the child's natural or adoptive parent must be verified to establish the unemployment factor.

For the child(ren) to be eligible for this program, the qualifying unemployed parent must be the principal earner and must meet the definition of unemployment specified in Section 0328.15.20.05.

The principal earner is the parent, in a home in which both parents of the child(ren) are living, who earned the greater amount of gross income in the 24-month period the last month of which immediately precedes the month in which an application is filed on the basis of unemployment of a parent. The parent who is determined to be the principal earner remains the principal earner for each consecutive month for which the family receives assistance on the basis of such application.

If the agency cannot secure primary evidence of earnings for this period, the eligibility technician shall designate the principal earner based on the best evidence available.

If both parents earned an identical amount of income in the twenty-four month period, the eligibility technician designates which parent shall be the principal earner.

0328.15.20.05 *Definition of Unemployment*

REV:01/2002

To meet the definition of unemployment, the parent who is the principal earner must be:

- o Unemployed for at least thirty days prior to the effective date of the payment; or,
- o Employed but working less than 100 hours a month, prior to

the effective date of the payment.

If the parent worked fewer than 100 hours during the 30-day period prior to acceptance, eligibility exists even though, during part of the time, s/he may have worked full-time.

The definition of unemployment may also be met if the parent is employed more than 100 hours during a particular month, but the work is intermittent and the excess is of a temporary nature, shown by the fact that s/he has worked fewer than 100 hours for the two prior months and is expected to work fewer than 100 hours a month during the next month.

In determining eligibility under this definition, vacation or sick pay is not counted as hours of work in determining the total monthly hours.

An exception to the above is a parent whose unemployment results from participation in a strike. A strike does not meet the definition of unemployment for MA eligibility purposes.

0328.20 EXCEPTIONS TO CHARACTERISTICS

REV:10/2008

Federal law provides for several family MA coverage groups whose eligibility is based on rules which depart from the requirement of dependency due to deprivation (absence, death, incapacity, unemployment) or receipt of cash assistance (SSI or FIP).

These family coverage groups include:

- 1) pregnant women (including Rite Care waiver pregnant women;
- 2) poverty level children (including Rite Care waiver children;
- 3) FIP families;
- 4) Section 1931 families (up to 110% FPL); and
- 5) MA Waiver families (up to 175% FPL).

0328.20.05 Children Under 19

REV:07/1999

In general, eligibility for Medical Assistance may exist for:

- o a child under nineteen (19) years of age whose family income does not exceed 250% of the federal poverty level (FPL), as categorically needy;
- o a child under eighteen (18) years of age whose family income exceeds 250% of the federal poverty level (FPL), as medically needy after meeting the requirements of the flexible test of income policy (see section 0336);

- o a child under one year of age, born to and living with a woman who was eligible and receiving Medical Assistance at the time of the child's birth, as categorically needy or medically needy depending on the mother's category of Medical Assistance.

See Section 0348 for detailed information regarding Medical Assistance for children.

0328.20.10 Pregnant Women

REV:05/1997

In general, eligibility for Medical Assistance may exist for the duration of the pregnancy and for 60 days postpartum for:

- o a pregnant woman whose family's countable income does not exceed 350% of the federal poverty level (FPL), as categorically needy;
- o a pregnant woman whose family's countable income exceeds 350% (250-350% is a state funded group) of the federal poverty level (FPL), as medically needy after meeting the spenddown requirements of the medically needy flexible test of income policy (see section 0336).

See Section 0348 for detailed information regarding Medical Assistance for pregnant women.

0328.20.15 Section 1931 and MA Waiver Families

REV:10/2008

In general, eligibility for family Medical Assistance Only may exist without regard to deprivation for:

- o a pregnant woman;
- o a child under eighteen years of age* whose family's countable income does not exceed 175% of poverty;
- o a parent, or parents, of an eligible child (SSI or family-related MA) whose countable income does not exceed 175% of poverty;
- o a caretaker relative of an eligible child (FIP, SSI, or family-related MA) whose countable income does not exceed 175% of poverty.

* See "in-school extension" as defined in Section 0306.10.05.